The Full Story: Lamont, McCarthy and G-2, See Pages 2 and 3.

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From Vinson to Warren

The late Chief Justice was a politician with little concern for the doctrine of separation of powers, given to acting as if he were still part of an Administration team and as self-assured as he was narrow in his judgment of men and events. He went on the bench in 1946 at the very beginning of the cold war, and the decisions handed down by the majority of which he was a part dutifully reflected the prejudices of the period.

Vinson and his colleagues of the majority dispensed degenerate doctrine. This was the Court which denied a hearing in the *Hollywood Ten* and *Barsky* cases, permitting Congressional inquisitors to breach the First Amendment and use the public pillory to terrorize the non-conformist. This was the Court which allowed the *Bailey* case to stand, branding a government employe disloyal on secret evidence never fully disclosed to her *or* her judges; the Court which upheld the Taft-Hartley oath and the Smith Act cases, where that monstrosity "conspiracy to advocate" was validated and the "clear and present danger" rule abandoned.

The common denominator of this new Truman Era constitutional law was the familiar premise of repressive government in all ages and in all its various guises—the notion that the supposed security of the State took precedence over the rights of the individual and the claims of free inquiry. Here Vinson, on the excuse of struggle with "totalitarianism", relapsed comfortably into the legal doctrines of his *bête noir,* Vishinsky. The cosmic joke of the cold war was this import into America of Russia's traditional spy-mania and constant obsessions about conspiracy. The story is really a simple one. A democratic country, trying to lead a world counter-revolution, naturally developed counter-revolutionary constitutional doctrines, revising Madison in the spirit of Metternich. This was the comedy in which Vinson played his determined role.

It would recklessly invite disappointment to believe that the substitution of Earl Warren for Fred Vinson as Chief Justice would bring this ignoble chapter in American law to a close. A community preparing—or being prepared—for war is a community in which basic liberties, though they figure prominently in the blowsy rhetoric of the warmongers, are always disregarded. The law is earthbound by its inescapable instruments. Judges, like juries, vary but are subject like the rest of us to the emotions which affect the human herd. Until the climate of opinion changes, the law as interpreted by the Court under Warren is unlikely to differ sharply from the law as dispensed under Vinson.

But having said this as hedge against the notorious lottery of judicial appointment it would be ungrateful not to recognize the miracle which has saved us from some Republican analogue of Clark or Minton. Within the limits set by circumstance and opinion, the Court may sway to one side or another. An Arthur Vanderbilt would have intensified the worst trends on the Court. An Attorney General out to curry favor with fanaticism might have persuaded the President to pick a repressionist Chief Justice to preside over a program in which Brownell promises to become another A. Mitchell Palmer.

We do not know for that matter what passed between the Attorney General and the Governor in those private conferences before the appointment was announced. We have no way of knowing whether pledges might have been made by implication. We do know that Warren's position on the loyalty oath at the University of California made him suspect in the eyes of one wing of the party, though the eagerness to push him upstairs and out of the way may have overbalanced anxiety.

It would be naive to suppose that Brownell did not seek some assurance that Warren would not prove an obstacle to the intensified deportation drive and anti-"subversive" campaign on which the new Attorney General is embarking on the weird theory that he can thereby prove Congressional witch hunting unnecessary. But we may comfort ourselves with the knowledge that assurances given before judicial appointment are apt to prove tenuous; they are contracts without an enforcement clause. It still seems a happy accident that produced a Warren in the party of Nixon and Knowland, and determined the award of our highest judicial office as consolation prize to a Republican as respected, humane and liberal as Earl Warren.

There are grounds for hoping that with Warren there will be a moderately liberal 5-4 majority on the new Court. For the Negro, the change from Vinson to Warren is a clear improvement, which should provide a favorable decision in the pending action against Jim Crowism in the schools. But the situation on civil rights in the sense of racial equality reflects the growing political power of the Negro. The situation as to civil *liberties* is strikingly different; here no sizeable portion of the electorate demands improvement, the victims are as yet part of a tiny minority of radicals and intellectuals.

If world tension mounts again, with renewed stalemate on Korea and Germany, Warren will certainly not be immune to the currents which made Frankfurter and Jackson captive on so many fundamental issues. But given a fair amount of peace, we have some reason to expect from Warren's past that there will now be five Judges prepared to put a rein on the worst excesses of the witch hunt. Even under Vinson, the Court enforced the elementary safeguards of the Fifth amendment. Perhaps under this new lineup there may be some hope for the First.

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McCarthy, Lamont and Military Intelligence . . .

Washington

The cast assembled slowly. That swarthy urchin, Roy Cohn, was one of the first to arrive. Mc Carthy's new staff director, Frank Carr, the former head of the New York FBI office, turned out to be a stoutish young man with a non-benevolent moon face, small heavily-lidded eyes, and a pug nose so tiny, it made his profile seem flat; he might have been the model for a toy Piggy-Wiggy bank. Louis Budenz, grayer and more wrinkled, dashed in out of breath, dangling a large brief case, for a quick conference with Cohn, Carr and a big Scandinavian, Karl Baarslag, who had finally proven too much even for the American Legion and is now doing research for Mc Carthy. The reporters had that Monday morning look. The big room was but sparsely filled. The TV machines were up and the bright camera lights on when Mc Carthy made his entrance alone, 15 minutes late. He had his left hand in his pocket and walked with what was meant to be a modest slouch, a self-conscious grin on his face. The gray jailbird complexion, the covert look of a smart fox, were unchanged. In that gravelly voice, bored, impersonal and inexorable, like the detective hero in a soap opera, Mc Carthy called the meeting to order. The scene was a familiar one—the caucus room of the Senate office building, on a Monday morning in late September. The Fall hunting season, Red hunting that is, had begun.

Out for Bigger Game

This season Mc Carthy is out for bigger game, the biggest he has tackled yet. The attack on military intelligence risks a conflict with the Pentagon, far more powerful and cohesive a bureaucracy than the State Department. Back of this attack sophisticated Washington observers see two factors at work. One is the long-time ambition of Mc Carthy's ally, J. Edgar Hoover, to take over all intelligence, to bring the Secret Service, CIA, OSS and the various intelligence branches of the armed services under his control. The Congressional investigating committees and the rightist papers with which Hoover has friendly relations have helped cast suspicion on CIA and OSS before.

The other factor at work is Mc Carthy's ambition to create a kind of dictatorship for himself within the framework of established government, to make himself the recipient of complaints from assorted crackpots and malcontents, to build up a secret ring of informants within the government, to use their reports in unscrupulous smear campaigns, and to make officials more fearful of him than of their own superiors.

Scuttlebutt on Siberia

The outlines of the process were visible in this week's hearing. Mc Carthy has been getting scuttlebutt from Army intelligence, as he does from other agencies. Of the pamphlet, "Psychological and Cultural Traits of Soviet Siberia" which he has attacked, Mc Carthy said "we had testimony in executive session the other day that a Major Wilson—I think it was a Major Wilson—strongly objected to this, and pointed out this was Soviet propaganda, Communist propaganda, from beginning to end."

Loose charges are taken at face value while official inquiry into them is brushed aside. "He objected so loudly," Mc Carthy said, "that Army Intelligence finally was forced to call a board to pass upon this." The findings are not revealed but "for some strange reason", Mc Carthy went on, the board thought the pamphlet should still be used. There are implied threats of future exposure to make the timid tremble. "I should point out, Mc Carthy warned, "it was a civilian who was selected to head this board, and that civilian also is holding a high position as of today over in the Pentagon." His head may be next.

In the Pentagon, as elsewhere, Mc Carthy is already dealing directly with department heads. The other book to which he objects (among how many hundreds on Russia which military intelligence must use?) is "USSR. A Concise Handbook", edited by Professor Ernest J. Simmons of Columbia. Mc Carthy said this had been used until the beginning of this year "and the new Secretary of the Army said he would immediately check to see whether it is still being used."

Col. R. R. McCormick Dissents

Mc Carthy's attack on military intelligence has alarmed circles friendly to him. For the first time, the Chicago Tribune and Washington Times-Herald, Col. Mc Cormick's twin publications, have published an editorial criticizing Mc Carthy. They disagreed with the Senator about the Siberian pamphlet, said his principal objection seemed to be that the pamphlet "does not assert that all people under the Soviet tyranny are opposed to it." The Mc Cormick organs said it was dangerous in war to embrace "false assumptions about the enemy" and that if there were ever a Russo-American war "it would be an error of the first magnitude to believe that every Russian except the top crust of a couple of million party members was disaffected and would turn on the regime at the first opportunity." Col. Mc Cormick, who has applauded so many Red smears, rose to the defense of Col. R. S. Bratton, who was in charge of preparing the pamphlet, as an officer of good reputation who had tried in vain to awaken the Department to the danger in the 24 hours before Pearl Harbor. Col. Mc Cormick's editorial writer also pointed out—quite like one of us "debunking" a smear on the Left—that only 100 were printed and 37 circulated and these only to staff officers who can be "expected to have sufficient perspective to abhor the Soviet system."

This effort to reason with Mc Carthy has a refreshing kind of amusement when it comes from the right. But Mc Carthy is no more concerned with the realities and mechanics of military intelligence than with those of the overseas libraries or the Foreign Service. He is interested in hashing up enough exaggeration, falsehood and alarm to serve the purpose of advertising himself and making others fearful of his power. For this purpose, as so often, he has gone back to the same limited witch hunt cast of characters and replayed some of the same old cracked records: a Russian who appeared before the Mc Carran committee and claims once to have been in the Soviet Foreign Service, and Budenz, that well-squeezed lemon out of the Daily Worker and the Communist Party. He found Corliss Lamont in the bibliography of the Siberian pamphlet and he found him and some other assorted liberals of varied hue in the Simmons symposium on Russia.

It was in the course of inflating this wee bogey into a man-sized scare about Army intelligence that Mc Carthy came up against Lamont. Lamont was taken before an executive session on a few hours notice in New York last week. On one side of the room sat 12 mysterious spectators—just like a jury. On the other side in solitary splendor was Louis Budenz. But Lamont failed to be awed. Instead of pleading the Fifth amendment, he challenged Mc Carthy's authority and invited a test by contempt citation, even risking a perjury charge in the process by denying —despite Louis Budenz—that he was a Communist. This was the second time this year Mc Carthy's authority to conduct an inquisition was challenged on First Amendment and other grounds. Corliss Lamont, like Harvey O'Connor, faces trial for contempt.

Their Star Performer

Lamont could also be indicted for perjury if Mc Carthy and the Department of Justice are prepared to take the risk involved in putting their star performer into the witness chair in a court of law, where he would be subject to cross examination and would himself be testifying under penalty of perjury. The hazards become evident if one looks carefully at what Budenz has actually testified about Lamont.

When Budenz was before the Mc Carran committee two years ago in the IPR investigation, Committee Counsel Robert Morris asked Budenz whether he had ever seen Lamont at Communist meetings. This colloquy followed.

Mr. BUDENZ. Not at Communist meetings, but I have met him as a Communist.

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. . . Who Was The Perjurer: Budenz or Lamont?

Mr. MORRIS. You have?

Mr. BUDENZ. Yes, and I have discussed with him on several occasions Communist affairs, with him as a Communist. You must understand that while Mr. Lamont, to my knowledge, was a Communist—that is, to my personal knowledge, and in meeting with him as such and conferring with him, that he sometimes had little difficulties with the Communist viewpoint with some criticism, and on several occasions and specifically on one that I can remember, I was called upon by the Communist leaders to give him information that would straighten him out. This was with regard to James Burnham, now of New York, who had evidently made quite an impression on Lamont and whom I assured him was a Trotzkyite.

This testimony is tantalizing. Budenz says Lamont was a Communist but he never saw Lamont at Communist meetings. Lamont was a Communist, but he had been impressed by James Burnham, a Trotzkyite.

Now your true Communist had the same horror of Trotzkyites that Catholics have of atheists. The only people who needed to be "straightened out" on the subject were persons not in the party, friendly to it but not under its orders. The picture is that of an "innocent", a fellow traveller, not a party member. This would explain why Budenz, though he "met him as a Communist" never saw Lamont at Communist party meetings.

However, Budenz's memory, like that of most informers, improves with the years under pressure. When Mc Carthy emerged from the executive session at which Budenz and Lamont testified last week, Mc Carthy had something new. He told the press Budenz had testified that some time between 1942 and 1945 Lamont had told him on the telephone that he was a Communist.

No Kidding?

Budenz was then managing editor of the Daily Worker and one can almost visualize the conversation:

LAMONT: Hello, Louis, this is Corliss.

BUDENZ: Hello, Corliss, how are you?

LAMONT: Fine, thanks. Say, Louis, did you know that I was a Communist?

BUDENZ: Gee, Corliss. No kidding?

Such a conversation would have been —to say the least—unusual, and presumably would have made a great impression on Budenz. Corliss Lamont phones the managing editor of the Daily Worker to announce that he is a Communist! Had he just joined? Or had Budenz doubted that Lamont was a Communist? How did Lamont happen to say this to Budenz? Budenz did not explain. The questions were not asked. But at the public session this week, Budenz discreetly omitted the story of the phone conversation.

This time when Roy Cohn asked Budenz about Lamont, Budenz replied:

"I knew about Corliss Lamont before I joined the Communist party. I knew him personally before I joined the Communist party, but after I joined the Communist party I not only knew him but knew of him, and I met him on several occasions in connection with pro-Communist activities . . ."

Note, "pro-Communist activities." Budenz was then in the party. If Lamont was also in the party, why did they never meet in connection with "Communist" and not just "pro-Communist" activities?

But let us return to Budenz's words: ". . . and he (Lamont) was referred to by Earl Browder as one of the four prides of the party, which included Rockwell Kent, Dr. Harry F. Ward, and the late Dr. Walter Rautenstrauch, *because of their always being ready to cooperate with any Communist front or Communist cause.*" The italics are mine. If Lamont was a Communist, what was strange about his being willing to cooperate? Communists are tightly disciplined. This again is how one speaks of a friend, not a party member.

Budenz went on to say, "That was in a National Committee meeting in the early 40's" and then—one could almost hear the deep breath—Budenz took the plunge: "I knew also that Corliss Lamont was, when I was a member of the Communist party, a member of the Communist party."

How Did Budenz Know?

This was momentous statement, and if true made Lamont a perjurer. Budenz was not asked how he knew. Had Lamont told him? Had he seen his party card? Had he collected his party dues? How did he know that Lamont was a member of the party? The witness had said what the Committee wanted to hear. Cohn passed rapidly on to something else, as if afraid lest any question might disturb this gem of testimony.

Cohn asked Budenz about the late Sir Bernard Pares. But Budenz obviously was uneasy about the Lamont testimony. Budenz broke into the question about Sir Bernard to say that "Mr. Lamont has a record of being on a great number of Communist fronts which, if we could analyze them, would show his devotion to Soviet Russia." But Budenz had just been saying that Lamont was a member of the Communist party. Why bring up his membership in Front organizations? Why analyze these memberships? What need to prove by inference from these memberships that Lamont was devoted to the Soviet Union? If Budenz felt that he was telling the truth when he said Lamont was a party member, there was no need for arguing the point by inference *unless Budenz himself felt insecure about his own testimony.*

At The Soviet Foreign Office

Mc Carthy's other prize witness at this week's hearing was a man named Igor Bogolepov, who also starred last year before the Mc Carran committee. Bogolepov claimed once to have been in the Soviet Foreign Office and Mc Carthy tried to prove through him (1) that material in the pamphlet on Siberia prepared by Army intelligence was "practically word for word" the same as material in "the Soviet bible," if you can call it that, "The Problems of Leninism," and (2) that the Simmons book was prepared on instruction of the Soviet Foreign Office.

The parallelism if any may be judged from the very first example cited by Bogolepov. He said that on the very first page of the pamphlet, it said " the harsh Soviet government has liquidated or expelled potentially rebellious elements." Just how this statement constitutes Soviet propaganda never did become clear.

The Myth of "Instructions"

Bogolepov's testimony, when carefully examined, as few will be able to examine it, was not much more satisfactory on the question of "instructions." Mc Carthy asked him whether "this man Simmons" was "receiving instructions directly from the Soviet Foreign Office" at the time he edited the handbook on the U.S.S.R. "Well, Senator, in a way, frankly speaking," was the reply, "there was instructions but you must understand that the Communist propagandists were clever enough to talk to the foreign guests whom they wanted to indoctrinate in a way which will not make them just subordinate (sic) his instructions."

Mc Carthy realized this answer of Bogolepov's spoiled the picture evoked by the word "instructions" so he proceeded to coach the witness. "Is it your testimony, Mc Carthy asked, "that Simmons came to the Foreign Office and received instruction from the Soviet Foreign Office, either through London or Moscow?" Nobody had mentioned London before but the witness answered dutifully if vaguely, "Yes, at least in one instance which is personally known to me."

The dates are interesting. Professor Simmons made five trips to Russia in connection with his biographies of Pushkin, Dostoyevsky and Tolstoy—in 1928, 1932, 1935, 1937 and 1947. According to Professor Simmons, he visited the Soviet Foreign Office on only one of these trips. the last, which was made on behalf of the American Council of Learned Societies. The handbook on Russia did appear in 1947 but Professor Simmons put it to press *before* visiting Russia. Anyway, according to Bogolepov's testimony, he had fled from the Soviet Union five years earlier, in 1942!

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JENNINGS PERRY'S PAGE

Public Disdains Threat That Leaves No Hope

When, the other day, the government released its official list of 193 cities the potential enemy probably would try to wipe out first, sure enough my home town Nashville, Tennessee, had made it.

Nobody turned a hair. I looked carefully to see.

The newspapers dutifully rewrote their Civil Defense editorials "in the light of new facts," i.e. that the potential enemy has made an atomic explosion using hydrogen. Everybody again was asked to "cooperate" with the local CD officials, whose names nobody had bothered to remember.

That was all. That is the way it has been for the past three years; indeed, since the end of WW II. Even the fact that our town had been mentioned with the elect—those of such importance that the enemy would head straight for them—was permitted to pass without as much as a murmur of satisfaction.

It was exactly the reaction, or lack of reaction, recounted by deMaupassant in his pleasant little story of Canneville after the disaster of Sedan: the people went on talking of whatever they were talking of before. But surely this was not the effect the announcement by the government should have produced. A whole city is not informed every day on the highest authority that its next moment might be its last. I spoke with my neighbors about it.

The coal broker on my left said with a cheerful grin that he supposed they would have to save the old newspapers to spread over the children; the automobile dealer across the street merely said, "Huh. Hadn't read about it" and went on down to his office in the heart of the "target" city that might not be there when he arrived.

The other cities in my state also tipped the Black Spot were equally as nonchalant. In New York, a few days later, when the sirens warbled for the make-believe double-bomb attack from which the survivors could only retreat to Staten Island, there was, I observed, as much boredom as alacrity in popular participation in the prescribed defense exercises. And all of this has impressed me.

Nashville and other cities of the hinterlands could be skeptical or just lethargic, but no New Yorker's pride would let him doubt that his matchless metropolis would be the enemy's prime mark. Why is he, why are all of us, I wondered, kicking at the fallen leaves in Bryant Park, so unmoved by the threat of Doomsday? Are we just the bravest in the world, the busiest, the most careless? Can't we bring ourselves to believe there really is an H-bomb or that anybody would be so crude as to drop one?

Perhaps it is Mr. Dulles' "measured revelation" of the fancier trick Science now has up its sleeve that has dulled our ordinary instinct to *sauve qui peut*: perhaps the argument has become senseless, when we are directed to mobilize our efforts to save any one city on what would be "a lifeless planet." Perhaps the threat is too big for our imagination or, conversely, so big in our imagination that anxiety seems a waste of emotion.

The CD officials have that problem of our strange behavior first of all, for if we will not flinch, or have gooseflesh or even willingly rehearse hiding in holes when the finger is pointed directly at us, as in the government's listings of the target cities, what *will* make us move? Will anything? What *is* the matter with us?

There is this possibility, not too far from probability, that nothing is the matter with us but experience; that there is no fate, no danger the new wonder weapons can hold over us, we, all of us who are adult, have not already learned to discount in the course of living. The threat is extermination. But all who have made the hard adjustment to the fact of mortality already have grasped that nettle. The difference here is a threat of extermination of all—all at once; but it is a difference which cannot be really appalling to minds more or less well-accustomed to the idea that one day in any case they must cease.

The statesmen, the scientists and the editorial admonitions have pictured a destruction, if there should be an atomic war, almost too comprehensive. Hope must have more room; an enlargement that now can be achieved only by marshalling human effort not to futile flight but to deeds of accommodation and agreement which would put war completely out of the question.

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